

## PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

### Sec.

- 440.1 Purpose and scope.
- 440.2 Administration of grants.
- 440.3 Definitions.
- 440.10 Allocation of funds.
- 440.11 Native Americans.
- 440.12 State application.
- 440.13 Local application.
- 440.14 State plans.
- 440.15 Subgrantees.
- 440.16 Minimum program requirements.
- 440.17 Policy Advisory Council.
- 440.18 Allowable expenditures.
- 440.19 Labor.
- 440.20 Low-cost/no-cost weatherization activities.
- 440.21 Weatherization materials standards and energy audit procedures.
- 440.22 Eligible dwelling units.
- 440.23 Oversight, training, and technical assistance.
- 440.24 Recordkeeping.
- 440.25 Reports.
- 440.26–440.29 [Reserved]
- 440.30 Administrative review.

### APPENDIX A TO PART 440—STANDARDS FOR WEATHERIZATION MATERIALS

AUTHORITY: 42 U.S.C. 6861 *et seq.*; 42 U.S.C. 7101 *et seq.*

SOURCE: 49 FR 3629, Jan. 27, 1984, unless otherwise noted.

#### § 440.1 Purpose and scope.

This part implements a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, persons with disabilities, families with children, high residential energy users, and households with high energy burden.

[65 FR 77217, Dec. 8, 2000]

#### § 440.2 Administration of grants.

Grant awards under this part shall comply with applicable law including, without limitation, the requirements of:

- (a) Executive Order 12372 entitled “Intergovernmental Review of Federal Programs”, 48 FR 3130, and the DOE Regulation implementing this Executive Order entitled “Intergovernmental

Review of Department of Energy Programs and Activities” (10 CFR part 1005);

(b) Office of Management and Budget Circular A–97, entitled “Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Inter-Governmental Coordination Act of 1968;”

(c) Unless in conflict with provisions of this part, the DOE Financial Assistance Rule (10 CFR part 600); and

(d) Such other procedures applicable to this part as DOE may from time to time prescribe for the administration of financial assistance.

#### § 440.3 Definitions.

As used in this part:

*Act* means the Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*

*Assistant Secretary* means the Assistant Secretary for Conservation and Renewable Energy or official to whom the Assistant Secretary’s functions may be redelegated by the Secretary.

*Base Allocation* means the fixed amount of funds for each State as set forth in § 440.10(b)(1).

*Base temperature* means the temperature used to compute heating and cooling degree days. The average daily outdoor temperature is subtracted from the base temperature to compute heating degree days, and the base temperature is subtracted from the average daily outdoor temperature to compute cooling degree days.

*CAA* means a Community Action Agency.

*Capital-Intensive furnace or cooling efficiency modifications* means those major heating and cooling modifications which require a substantial amount of funds, including replacement and major repairs, but excluding such items as tune-ups, minor repairs, and filters.

*Children* means dependents not exceeding 19 years or a lesser age set forth in the State plan.

*Community Action Agency* means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88–452, which is authorized to administer

## Department of Energy

## § 440.3

funds received from Federal, State, local, or private funding entities to assess, design, operate, finance, and oversee antipoverty programs.

*Cooling Degree Days* means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by DOE.

*Deputy Assistant Secretary* means the Deputy Assistant Secretary for Technical and Financial Assistance or any official to whom the Deputy Assistant Secretary's functions may be redelegated by the Assistant Secretary.

*DOE* means the Department of Energy.

*Dwelling Unit* means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

*Elderly Person* means a person who is 60 years of age or older.

*Electric base-load measures* means measures which address the energy efficiency and energy usage of lighting and appliances.

*Family Unit* means all persons living together in a dwelling unit.

*Formula Allocation* means the amount of funds for each State as calculated based on the formula in § 440.10(b)(3).

*Formula Share* means the percentage of the total formula allocation provided to each State as calculated in § 440.10 (b)(3).

*Governor* means the chief executive officer of a State, including the Mayor of the District of Columbia.

*Grantee* means the State or other entity named in the Notification of Grant Award as the recipient.

*Heating Degree Days* means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by DOE.

*High residential energy user* means a low-income household whose residential energy expenditures exceed the median level of residential expenditures for all low-income households in the State.

*Household with a high energy burden* means a low-income household whose residential energy burden (residential expenditures divided by the annual income of that household) exceeds the

median level of energy burden for all low-income households in the State.

*Incidental Repairs* means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to, framing or repairing windows and doors which could not otherwise be caulked or weatherstripped and providing protective materials, such as paint, used to seal materials installed under this program.

*Indian Tribe* means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaskan native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203, 85 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans, or (2) is located on, or in proximity to, a Federal or State reservation or rancheria.

*Local Applicant* means a CAA or other public or non profit entity unit of general purpose local government.

*Low Income* means that income in relation to family size which:

(1) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Secretary of Health and Human Services, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964;

(2) Is the basis on which cash assistance payments have been paid during the preceding twelve month-period under titles IV and XVI of the Social Security Act or applicable State or local law; or

(3) If a State elects, is the basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981, provided that such basis is at least 125 percent of the poverty level

determined in accordance with criteria established by the Director of the Office of Management and Budget.

*Native American* means a person who is a member of an Indian tribe.

*Non-Federal leveraged resources* means those benefits identified by State or local agencies to supplement the Federal grant activities and that are made available to or used in conjunction with the DOE Weatherization Assistance Program for the purposes of the Act for use in eligible low-income dwelling units.

*Persons with Disabilities* means any individual (1) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (2) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (3) who is receiving benefits under chapter 11 or 15 of title 38, U.S.C.

*Program Allocation* means the base allocation plus formula allocation for each State.

*Relevant Reporting Period* means the Federal fiscal year beginning on October 1 and running through September 30 of the following calendar year.

*Rental Dwelling Unit* means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

*Residential Energy Expenditures* means the average annual cost of purchased residential energy, including the cost of renewable energy resources.

*Secretary* means the Secretary of the Department of Energy.

*Separate Living Quarters* means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements, and includes shelters for homeless persons.

*Shelter* means a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another

and who are not living in nursing homes, prisons, or similar institutional care facilities.

*Single-Family Dwelling Unit* means a structure containing no more than one dwelling unit.

*Skirting* means material used to border the bottom of a dwelling unit to prevent infiltration.

*State* means each of the States and the District of Columbia.

*Subgrantee* means an entity managing a weatherization project which receives a grant of funds awarded under this part from a grantee.

*Support Office Director* means the Director of the DOE Field Support Office with the responsibility for grant administration or any official to whom that function may be redelegated by the Assistant Secretary.

*Total Program Allocations* means the annual appropriation less funds reserved for training and technical assistance.

*Tribal Organization* means the recognized governing body of any Indian tribe or any legally established organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

*Unit of General Purpose Local Government* means any city, county, town, parish, village, or other general purpose political subdivision of a State.

*Vestibule* means an enclosure built around a primary entry to a dwelling unit.

*Weatherization Materials* mean:

- (1) Caulking and weatherstripping of doors and windows;
- (2) Furnace efficiency modifications including, but not limited to—
  - (i) Replacement burners, furnaces, or boilers or any combination thereof;
  - (ii) Devices for minimizing energy loss through heating system, chimney, or venting devices; and
  - (iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;
- (3) Cooling efficiency modifications including, but not limited to—
  - (i) Replacement air conditioners;
  - (ii) Ventilation equipment;
  - (iii) Screening and window films; and
  - (iv) Shading devices.

## Department of Energy

**\$ 440.10**

*Weatherization Project* means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are energy inefficient.

[49 FR 3629, Jan. 27, 1984, as amended at 50 FR 712, Jan. 4, 1985; 50 FR 49917, Dec. 5, 1985; 55 FR 41325, Oct. 10, 1990; 58 FR 12525, Mar. 4, 1993; 60 FR 29480, June 5, 1995; 65 FR 77217, Dec. 8, 2000]

### **§ 440.10 Allocation of funds.**

(a) DOE shall allocate financial assistance for each State from sums appropriated for any fiscal year, upon annual application.

(b) Based on total program allocations at or above the amount of total program allocations under Pub. L. 103-332, DOE shall determine the program allocation for each State from available funds as follows:

(1) Allocate to each State a "Base Allocation" as listed in Table 1.

TABLE 1

Alabama .....	1,636,000
Alaska .....	1,425,000
Arkansas .....	1,417,000
Arizona .....	760,000
California .....	4,404,000
Colorado .....	4,574,000
Connecticut .....	1,887,000
Delaware .....	409,000
District of Columbia .....	487,000
Florida .....	761,000
Georgia .....	1,844,000
Hawaii .....	120,000
Idaho .....	1,618,000
Illinois .....	10,717,000
Indiana .....	5,156,000
Iowa .....	4,032,000
Kansas .....	1,925,000
Kentucky .....	3,615,000
Louisiana .....	912,000
Maine .....	2,493,000
Maryland .....	1,963,000
Massachusetts .....	5,111,000
Michigan .....	12,346,000
Minnesota .....	8,342,000
Mississippi .....	1,094,000
Missouri .....	4,615,000
Montana .....	2,123,000
Nebraska .....	2,013,000
Nevada .....	586,000
New Hampshire .....	1,193,000
New Jersey .....	3,775,000
New Mexico .....	1,519,000
New York .....	15,302,000
North Carolina .....	2,853,000
North Dakota .....	2,105,000
Ohio .....	10,665,000
Oklahoma .....	1,846,000

TABLE 1—Continued

Oregon .....	2,320,000
Pennsylvania .....	11,457,000
Rhode Island .....	878,000
South Carolina .....	1,130,000
South Dakota .....	1,561,000
Tennessee .....	3,218,000
Texas .....	2,999,000
Utah .....	1,692,000
Vermont .....	1,014,000
Virginia .....	2,970,000
Washington .....	3,775,000
West Virginia .....	2,573,000
Wisconsin .....	7,061,000
Wyoming .....	967,000
Total .....	171,258,000

(2) Subtract 171,258,000 from total program allocations.

(3) Calculate each State's formula share as follows:

(i) Divide the number of "Low Income" households in each State by the number of "Low Income" households in the United States and multiply by 100.

(ii) Divide the number of "Heating Degree Days" for each State by the median "Heating Degree Days" for all States.

(iii) Divide the number of "Cooling Degree Days" for each State by the median "Cooling Degree Days" for all States, then multiply by 0.1.

(iv) Calculate the sum of the two numbers from paragraph (b)(3)(ii) and (iii) of this section.

(v) Divide the residential energy expenditures for each State by the number of households in the State.

(vi) Divide the sum of the residential energy expenditures for the States in each Census division by the sum of the households for the States in that division.

(vii) Divide the quotient from paragraph (b)(3)(v) of this section by the quotient from paragraph (b)(3)(vi) of this section.

(viii) Multiply the quotient from paragraph (b)(3)(vii) of this section for each State by the residential energy expenditures per low-income household for its respective Census division.

(ix) Divide the product from paragraph (b)(3)(viii) of this section for each State by the median of the products of all States.

(x) Multiply the results for paragraph (b)(3)(i), (iv) and (ix) of this section for each State.